

### **302 KAR 1:055. Milk referendum.**

RELATES TO: KRS 247.450-247.505

STATUTORY AUTHORITY: KRS 247.450-247.505

NECESSITY, FUNCTION, AND CONFORMITY: KRS 247.450-247.505 authorize the commissioner to establish and determine the rules and administrative regulations to conduct a referendum among producers of milk on a commercial basis for the purpose of promoting and stimulating by educational and applied research programs, the increased production of milk in this state.

Section 1. Definitions. As used in these rules and administrative regulations, unless the context requires otherwise:

- (1) "Commissioner" means the Commissioner of Agriculture.
- (2) "Board" means the State Board of Agriculture.
- (3) "Producer" means every person who produces milk and causes the same to be marketed as milk.
- (4) "Person" means any individual, corporation or partnership, association, cooperative, or other business entity.
- (5) "Referendum agent" means an employee of the State Department of Agriculture under the direct control of the Commissioner of Agriculture.
- (6) "County referendum agent" means an appointed person by the Commissioner of Agriculture in a county where the milk producer referendum is held, as his agent for the conduct of the referendum.
- (7) "Kentucky Milk Producers Association" means an existing association, representative of the producers of milk on a commercial basis in this state.
- (8) "Association" means any commission, council, board or other body.

Section 2. Counties in which Referendum will be Conducted. The milk producers referendum will be conducted in all of the 120 counties in Kentucky.

Section 3. Who may Vote. (1) Each person engaged in the production of milk on a commercial basis, including owners of farms on which milk is produced on a commercial basis, tenants and sharecroppers sharing in the proceeds of the milk production shall be eligible to cast one (1) vote in the referendum, provided the producer is eighteen (18) years of age or older.

(2) Without limiting subsection (1) of this section, each person whose name regularly appears on checks issued in payment for the sale of milk is eligible to cast one (1) vote in the referendum regardless of the ownership of the farm upon which the milk was produced. No person who certifies to the county referendum agent that he is a producer of milk shall be refused a ballot, but the person may be required to furnish the county referendum agent with information specific enough for the commissioner to verify the person's voting eligibility before the ballot is counted in the referendum.

Section 4. Voting Places. The commissioner shall establish a voting place in each county within the state where producers of milk reside. The voting place shall be in the county extension service office in each county where the referendum is conducted. The referendum agent shall provide an area where each voter can mark his ballot in privacy. Only one (1) voter shall be permitted in the voting area while voting. One (1) or more county referendum agents may be permitted in each voting place for the purpose of conducting the referendum. The county referendum agent shall be in charge of and be responsible for the voting area. Campaigning for or against the referendum will not be permitted in the county extension service office during voting hours.

Section 5. Voting Hours. The voting places will be open from 9 a.m. to 3 p.m. local time and eligible voters will be permitted to vote only during that period of time or by absentee ballot as set forth in Section 6 of this administrative regulation. Voters will be permitted to vote only in the county of their residence or in the case of a corporate producer in the county where its principal place of business is located.

Section 6. Absentee Voting. Voting by absentee ballot will be permissible; provided, that a request for an absentee ballot is made in writing to the commissioner at least ten (10) days in advance of the referendum voting date. The absentee ballot must be signed and returned to the commissioner on or before the referendum voting date.

Section 7. Referendum Voting Date. The milk producers referendum voting date will be set by the commissioner after certification of the referendum. The date determined for the referendum, the hours and polling places for voting, the effective date of the assessment, if adopted, the amount and basis of the assessment proposed to be collected, the means by which the assessment shall be collected, and the general purposes to which the assessment shall be applied, will be published by the commissioner through the medium of the public press in the Commonwealth of Kentucky at least thirty (30) days before the date of the referendum, and direct written notice of the referendum date will be given to each county referendum agent.

Section 8. Supervision of Referendum and Duties of County Referendum Agent. The commissioner shall provide the county referendum agent with a copy of these rules and administrative regulations. Each county referendum agent shall have in his possession and under his control a ballot box and the approved ballot forms, indelible marking pens and other supplies sufficient to operate each voting place as established in Section 4 of this administrative regulation. Each prospective voter shall identify himself to the county referendum agent; and the voter will be required to sign a registration book giving his name, complete mailing address and telephone number. The registration book shall be maintained by the county referendum agent. Upon signing the registration book, each prospective voter will receive an approved ballot form from the county referendum agent. The ballot form, after it has been completed by the voter, shall be placed in the ballot box.

Section 9. Approved Ballot Forms. The commissioner shall furnish each county referendum agent in advance with official ballot forms. The official ballot forms shall state the question to be presented to the voters. The question presented shall show that the milk producer is voting on whether or not the milk producer is in favor of the collection by the Kentucky Milk Producers Association of an assessment for the purpose of financing a promotional and educational program to stimulate applied research and increase the production of milk. The assessment collected by the purchasers of milk will be sent to the Kentucky Milk Producers Association to be used as provided in KRS 247.450-247.505. The assessment to be deducted from the payment for milk delivered after October 1, 1990, is 0.15 of one (1) percent of the value of the milk sold by the producer.

Section 10. Custody of Ballot Box and Referendum Material. Each county referendum agent shall provide a ballot box large enough to enclose all ballots cast in the referendum and to protect the ballots to ensure that the information on the ballots is held in confidence. The county referendum agent shall mail to the Department of Agriculture, all marked ballots and registration books used for the referendum. The ballots and registration books shall be mailed in a properly secured manila envelope or folder.

Section 11. Confidential Information. All ballots cast, the identity of any person who voted, or the

manner in which the person voted, and all information furnished to, compiled by or in the possession of the commissioner, the county referendum agent, shall be regarded as confidential. The commissioner shall retain the records, the ballots, the results of the referendum, and all other information furnished to or compiled by the commissioner in regard to the referendum for a period of twelve (12) months.

Section 12. Counting of Votes. Within five (5) days after the referendum, the commissioner shall designate an area within the department's office to be used for counting the votes cast and the referendum. The vote count shall be conducted by employees of the department, but the Kentucky Milk Producers Association, and any organization actively engaged in the production of milk in Kentucky, may each have one (1) representative present during the counting of the votes. The organization shall establish, to the satisfaction of the commissioner, that it desires to observe the counting of the ballots for a legitimate purpose.

Section 13. Announcement of Referendum Results. Announcement of the results of the referendum will be made only by the commissioner. The referendum agent or others who assist in the referendum shall not disclose any information in regard to the referendum. The commissioner will announce the results within ten (10) days after the referendum.

Section 14. Referendum Costs. All costs and expenses incurred by the commissioner in connection with the referendum shall be borne by the association conducting the referendum. The commissioner shall notify the association of all documented costs and expenses incurred in conducting the referendum including mailing and shipping costs, within ninety (90) days of the date the results the referendum are announced by the commissioner.

Section 15. Affirmative Vote. An assessment approved by an affirmative vote as defined by Section 14 of the Act, shall be collected and remitted to the association on or before the final day of the month following the end of the month in which the commodity is sold to the purchaser in the manner determined and announced by the association conducting the referendum.

Section 16. Subsequent Referendum. Any subsequent referendum among the producers which provides that the eligible producers may vote with regard to whether the milk producer assessment approved by affirmative vote shall be continued or terminated shall be conducted in accord with the provisions of this administrative regulation. Except that the official ballots shall show that the question to be presented is whether the assessment of 0.15 of one (1) percent of the value of milk sold by the producer in the state shall be terminated after the last day of the month in which the referendum is held. (17 Ky.R. 157; eff. 8-22-90.)